

Calendar No. 353

108TH CONGRESS
1ST SESSION

S. 150

[Report No. 108–155]

To make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

IN THE SENATE OF THE UNITED STATES

JANUARY 13, 2003

Mr. ALLEN (for himself, Mr. GREGG, Mr. BURNS, Mr. ENSIGN, Mr. BUNNING, Mr. SUNUNU, Mr. WARNER, Mr. MILLER, Mr. BROWNBACK, Mr. BAYH, Mr. SMITH, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 29, 2003

Reported by Mr. MCCAIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

SEPTEMBER 29, 2003

Referred to the Committee on Finance for a period not to exceed thirty calendar days with instructions to report or be discharged pursuant to the order of September 23, 2003

OCTOBER 29, 2003

Discharged pursuant to the order of September 23, 2003, and placed on the calendar

A BILL

To make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on elec-

tronic commerce imposed by the Internet Tax Freedom Act.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Tax Non-dis-
 5 crimination Act of 2003”.

6 **SEC. 2. AMENDMENT OF INTERNET TAX FREEDOM ACT.**

7 Section 1101(a) of the Internet Tax Freedom Act (47
 8 U.S.C. 151 nt.) is amended—

9 (1) by striking “taxes during the period begin-
 10 ning on October 1, 1998, and ending on November
 11 1, 2003—” and inserting “taxes.”;

12 (2) by striking paragraph (1) and inserting the
 13 following:

14 “(1) Taxes on Internet access.”; and

15 (3) by striking “multiple” in paragraph (2) and
 16 inserting “Multiple”.

17 **SEC. 2. REPEAL OF EXCEPTION.**

18 Section 1104 of the Internet Tax Freedom Act (47
 19 U.S.C. 151 nt.) is amended by striking paragraph (10).

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Internet Tax Non-*
 22 *discrimination Act”.*

1 **SEC. 2. PERMANENT EXTENSION OF INTERNET TAX FREE-**
 2 **DOM ACT MORATORIUM.**

3 (a) *IN GENERAL.*—Subsection (a) of section 1101 of
 4 the Internet Tax Freedom Act (47 U.S.C. 151 note) is
 5 amended to read as follows:

6 “(a) *MORATORIUM.*—No State or political subdivision
 7 thereof may impose any of the following taxes:

8 “(1) *Taxes on Internet access.*

9 “(2) *Multiple or discriminatory taxes on elec-*
 10 *tronic commerce.”.*

11 (b) *CONFORMING AMENDMENTS.*—

12 (1) *Section 1101 of the Internet Tax Freedom*
 13 *Act (47 U.S.C. 151 note) is amended by striking sub-*
 14 *section (d) and redesignating subsection (e) as sub-*
 15 *section (d).*

16 (2) *Section 1104(10) of the Internet Tax Free-*
 17 *dom Act (47 U.S.C. 151 note) is amended by striking*
 18 *“unless” and all that follows through “1998”.*

19 (3) *Section 1104(2)(B)(i) of the Internet Tax*
 20 *Freedom Act (47 U.S.C. 151 note) is amended by*
 21 *striking “except with respect to a tax (on Internet ac-*
 22 *cess) that was generally imposed and actually en-*
 23 *forced prior to October 1, 1998,”.*

24 (c) *CLARIFICATION.*—The second sentence of section
 25 1104(5), and the second sentence of section 1101(e)(3)(D)
 26 (as redesignated by subsection (b)(1) of this Act), of the

1 *Internet Tax Freedom Act (47 U.S.C. 151 note) are each*
 2 *amended by inserting “, except to the extent such services*
 3 *are used to provide Internet access” before the period.*

4 **SEC. 3. 3-YEAR SUNSET FOR PRE-OCTOBER, 1998, TAX EX-**
 5 **CEPTION.**

6 *The Internet Tax Freedom Act (47 U.S.C. 151 note)*
 7 *is amended—*

8 *(1) by redesignating section 1104 as section*
 9 *1105; and*

10 *(2) by inserting after section 1103 the following:*

11 **“SEC. 1104. PRESERVATION OF PRE-OCTOBER, 1998, STATE**
 12 **AND LOCAL TAX AUTHORITY UNTIL 2006.**

13 *“(a) IN GENERAL.—Section 1101(a) does not apply to*
 14 *a tax on Internet access that was generally imposed and*
 15 *actually enforced prior to October 1, 1998, if, before that*
 16 *date, the tax was authorized by statute and either—*

17 *“(1) a provider of Internet access services had a*
 18 *reasonable opportunity to know by virtue of a rule or*
 19 *other public proclamation made by the appropriate*
 20 *administrative agency of the State or political sub-*
 21 *division thereof, that such agency has interpreted and*
 22 *applied such tax to Internet access services; or*

23 *“(2) a State or political subdivision thereof gen-*
 24 *erally collected such tax on charges for Internet access.*

1 “(b) *TERMINATION.*—*This section shall not apply after*
2 *October 1, 2006.*”

3 “(c) *TAX ON INTERNET ACCESS.*—*Notwithstanding*
4 *section 1105(10), in this section the term ‘tax on Internet*
5 *access’ includes the enforcement or application of any pre-*
6 *existing tax on the sale or use of Internet services if that*
7 *tax was generally imposed and actually enforced prior to*
8 *October 1, 1998.’.*”

9 **SEC. 4. UNIVERSAL SERVICE.**

10 *Nothing in the Internet Tax Freedom Act shall prevent*
11 *the imposition or collection of any fees or charges used to*
12 *preserve and advance Federal universal service or similar*
13 *State programs authorized by section 254 of the Commu-*
14 *nications Act of 1934.*

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